

Nevada Restricted Fertilizer Guidance

Table of Contents

Introduction & History.....	1
Terms & Requirements	2
Dealing with Suspicious Purchases.....	4
Plant and Product Security Information	5
FREQUENTLY ASKED QUESTIONS.....	7
Important Contact Information	8
Appendix A.....	9
Appendix B.....	11

Overview of Nevada Department of Agriculture and the Restricted-Use Fertilizer Licensing Program

New security measures since the September 11th tragedy have pervaded nearly every part of our lives. Due to the potential for misuse of certain fertilizers, The Nevada Department of Agriculture (NDOA) has found it necessary to begin requiring Licenses for fertilizer distributors. This document is intended to help you better understand how these changes and new Licenses will affect you.

Introduction & History

The Nevada Department of Nevada has a long-standing involvement in the fertilizer regulatory arena. An integral part of this mission is ensuring the safe and effective use of agricultural products, such as pesticides and fertilizer including providing unbiased, third party quality assurance programs for the fertilizer industry. The primary focus for accomplishing our mission is the **Fertilizer Inspection Program** which involves registration, sampling and laboratory analysis of fertilizers and liming materials to ensure that label guarantees are met.

Because of terrorist activity in recent years, administrators and regulators both recognized a need to extend the scope of the fertilizer regulatory program to include consumer protection and public safety. In a 1998 publication by the National Academy of Science, ammonium nitrate fertilizer was identified as the number one material likely to be misused by terrorists. This was based on the availability and ease of acquisition of ammonium nitrate fertilizers. The publication also recommended actions on the part of state regulatory agencies, which included Licensing of dealers to sell such potentially hazardous fertilizer materials.

The terrorist attacks that took place on September 11, 2001, motivated administrators to take measures to prevent the likelihood of terrorist misuse of fertilizers in Nevada. The passage of AB 193 during the 72nd Session of the Nevada Legislature (2003) resulted in the Licensing statutes we now have in place. These amendments to NRS 588 authorized the creation of a Restricted-use Fertilizer category and required Licensing of dealers.

The purpose of these amendments to Nevada Fertilizer Law is to increase the safety and security of the citizens of Nevada by safeguarding the sale of materials with potential to be misused as dangerous explosives or other unintended uses. Nevada is the second state in the nation to enact a law like this. It requires fertilizer manufacturers and dealers to obtain Licenses to sell products that meet certain criteria.

The changes in the law affect three groups of individuals: registrants, dealers, and distributors.

Registrants are companies that guarantee the nutrient content of their product to consumers and are liable for the contents of the products they sell.

Dealers are companies that sell commercial fertilizers acquired from a registrant or another dealer, but do not guarantee the contents of the products that they sell.

Distributors are companies who import or manufacture commercial fertilizers or who otherwise supply commercial fertilizer in the State of Nevada. Dealers and registrants are both considered distributors in Nevada.

A copy of the relevant sections of the Nevada Fertilizer Law as amended can be found in Appendix B.

Terms & Requirements

Restricted Fertilizer Licenses: Anyone who sells Restricted Fertilizers in ANY quantity is required to obtain a Restricted Fertilizer License.

Currently anyone who sells or offers for sale ammonium nitrate and/or anhydrous ammonia as straight grade materials. This would include any retailer, distributor or manufacturer that offers any restricted fertilizer for sale. **There is no package size exemption for restricted fertilizer materials.**

There is a \$25.00 fee for the Restricted Fertilizer License for all companies. Multiple outlets or “Agents” may be registered under a single License.

Restricted Fertilizers: are those commercial fertilizers that are determined by the Nevada Board of Agriculture, which if misused, present an unreasonable threat to public safety due to potential explosive capacity or some other hazardous quality.

Presently, these fertilizers include:

- **Ammonium Nitrate** – chiefly the ammonium salt of nitric acid. It shall contain not less than thirty three percent (33%) nitrogen, one half of which is the ammonium form and one half in the nitrate form.
- **Anhydrous Ammonia** – Eighty two percent (82%) nitrogen that is liquid under pressure

***These are currently the ONLY materials that fall into the restricted category. Currently there are no specific blended materials (such as 10-10-10) on the restricted fertilizer list. However, blends made from ammonium nitrate must be composed of less than 80% ammonium nitrate to be considered as non-restricted. This percentage is based on the explosive capacity of ammonium nitrate.

Record Keeping Requirements

Restricted Fertilizer License holders must record all sales of restricted fertilizers showing:

- (a) The date of sale or delivery of the restricted fertilizer;
- (b) The name and address of the person to whom the restricted fertilizer was sold or delivered;
- (c) The brand name of the restricted fertilizer sold or delivered;
- (d) The amount of the restricted fertilizer sold or delivered; and
- (e) A unique i.d. Number providing positive identification of the buyer; obtained from a government issued photographic document (such as a valid driver’s license number or other approved picture identification).

This information is to be kept for a minimum of two years. All Licenses expire on December 31st of each year.

PLEASE NOTE: We will not routinely provide record books for this purpose. We hope to

avoid the chore of writing down information twice. Dealers already tracking sales do so by adding the id check to existing invoices which already contain all the other required information. We do require that this information is readily retrievable and can be provided on request. Out-of State Dealers should report with their quarterly tonnage reports. Please contact us if you have any questions. We can provide our own form(s) for you on request, they will also be available on our web site at http://agri.nv.gov/Chem_index.htm

Dealing with Suspicious Purchases

It is extremely important for dealers of restricted fertilizer products to understand that they have the legal right to deny anyone access to any fertilizer materials. If a dealer is uncomfortable with making a sale the appropriate course of action is to refuse the sale.

Dealers should be on the look out for the following:

- Persons wishing to purchase materials during the off season,
- Persons requesting unusual quantities of materials,
- Persons they do not know wishing to buy restricted materials, and
- Persons not actively involved in crop production wishing to purchase restricted products.

Alternatives to refusing a sale:

- Ask the person what they intend to use the products for.
- Try recommending an alternative material. If he/she insists on buying only the restricted product, do not be afraid to ask them *why*.
- Question the consumer about his or her production practices.

Whenever a dealer encounters a suspicious attempt to purchase restricted fertilizer products, he should record any details, including a description of the person, and contact the State regulatory agency and/or the local, state or federal law enforcement authorities immediately. *See the section of this notice that contains important contact information.*

**Contact the Nevada Department of
Agriculture if you have ANY questions
regarding the new laws & regulations.**

Attention: Ruth Tietjen
350 Capitol Hill Avenue
Reno NV 89502
Phone: 775 688 -180 extension 256
Fax: 775 688-1178
Email: nvferts@agri.state.nv.us

Plant and Product Security Information

Some agricultural crop production materials may be targeted by terrorists, and careful steps should be taken to make sure such materials are safeguarded.

Checklist for Fertilizer Manufacturers, Dealers and Distributors

Facility Security Considerations

1. Is the perimeter secure? Fenced and locked? Inspected daily for signs of attempted entry, vandalism and structural integrity?
2. Is the facility secure? Locked? Outside lights working and adequate to cover the entire facility and parking areas?
3. Are security systems in good working order? Cameras operational? Alarms functional? Have security guards been considered for after business hours?
4. Have you contacted local law enforcement about increasing surveillance of your location?
5. Is the door locked if the front desk is unattended?
6. Do you conduct pre-employment background checks?
7. Are visitors given a pass, escorted and recorded?

Considerations Preceding the Sale of Certain Crop Production Materials

1. Do you know the customer? Is the customer a legitimate user?
2. If the customer is a stranger, has an on-site inspection been performed prior to selling and delivering the material?
3. Are cash sales limited to known customers?
4. Are deliveries made only to secure storage areas?
5. Have you advised your customers about the potential theft and criminal misuse of the products they are purchasing and asked them to safeguard the materials?
6. Have employees be on the lookout for suspicious activities and for people they do not know. Have employees ask unknown persons to identify themselves and state their purpose for being there.
7. Know who has keys and access to hazardous material storage areas.
8. Retrieve keys and identification materials from all employees at once when their employment ends.
9. Develop an emergency response plan and make sure all employees are of aware of what to do in case of an emergency.

Security Tips for Hauling Fertilizers

1. Check the quantity of material when loading. Compare with paperwork to be sure no product is missing. Lock doors as necessary.
2. Go directly to the delivery point whenever possible, taking the best route available to avoid high population areas, tunnels, and bridges.
3. Exercise extreme caution if it becomes essential to stop. Avoid unguarded and poorly lighted areas where theft is a substantial risk. Be on your way as soon as possible.
4. Be alert to vehicles following your truck, strangers asking questions, or anyone snooping around your cargo.
5. Do not pick up hitchhikers, do not talk about your cargo on CB radios, and do not discuss your cargo with those who are not involved.

6. Always contact your customer if you find you will be late for a delivery.
7. Check your load at delivery to ensure that no product is missing. Do not leave any product at field sites unless it is well attended or secured within buildings. Always obtain a signed delivery ticket.
8. Carefully check the background of all new drivers. Every driver should be properly licensed and trained in good practices for handling fertilizer that may be hazardous in the hands of dangerous people.
9. Immediately report any suspicious activities to the proper authorities. See section on important contact information.

FREQUENTLY ASKED QUESTIONS

1.) I stock a considerable amount of fertilizers, both restricted and non-restricted; however, the products are for my own use, and I do not sell them to anyone. Do I have to have a License?

If fertilizers are retained solely for someone's own use (private or commercial) no License is required.

2.) I sell ammonium nitrate but only in packages of 10 pounds or less. Does this mean I do not need a restricted License?

NO! Anyone engaged in selling restricted fertilizers, regardless of package size, must have a restricted fertilizer License.

3.) I distribute branded fertilizers produced by a major manufacturer. May I use their License numbers in order to sell these products?

NO! A License is only valid for the business name printed on the face of the License. Each location that qualifies must obtain a valid License or be listed as an agent by the Licensee.

4.) I do not sell enough restricted fertilizer product in a year to warrant paying the \$25.00 fee for the License or do not wish to stock restricted fertilizer products. What can I sell in place of the restricted fertilizers?

There are a tremendous number of alternative nitrogen sources that can be sold with out a restricted fertilizer License. A few of these would include:

Calcium Nitrate 15.5-0-0 Sodium Nitrate 16-0-0 Potassium Nitrate 15-0-0 Ammonium Sulfate 20.5-0-0	Isobutylidene Diurea 30-0-0 Sulfur Coated Urea 30-40% N Methylenediurea 42-0-0 Mimethylenetriurea 40-0-0 Polymer coated urea 40-0-0	34-0-0 made from ammonium sulfate and/or urea with filler Neutroform and Neutraline nitrogen: 38-0-0 and 40-0-0 Nitrogen solutions: 19-0-0, 25-0-0, 28-0-0, 30-0-0, 32-0-0
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5.) I am a restricted License holder and often sell restricted products out-of-state. Do I have to record information from out of state purchasers?

Under Nevada Law, all sales of Restricted Fertilizer in or from Nevada must be recorded

6.) I am a fertilizer dealer/landscaper that often spreads fertilizer for my customers. If they order a restricted product and I spread it for them, what information do I need to record and keep on file?

Dealers who apply restricted fertilizers for consumers are advised that to avoid problems during audits they may record their own restricted License number in lieu of a drivers license. The dealer must indicate that he spread the material. This does not apply when dealers simply deliver material to a consumer's location without spreading it. In this case

ALL required information must be recorded

7.) If someone I do not know wants to buy restricted products, do I have the legal right to deny them the material?

YES! A dealer has the right to deny anyone access to any fertilizer products if they are uncomfortable about the circumstances.

8.) There are several of my customers who do not have drivers licenses. In the past, I have sold them a considerable amount of restricted products. How should I handle situations like this?

The law is very specific with regards to the record keeping requirements relating to restricted fertilizer sales. You must record a valid state or federal drivers license number or other approved picture ID for each consumer purchasing a restricted product. If the consumer does not have a drivers license, but does have another form of picture ID, check with our department to see if it will suffice.

9.) When do these changes to the law go into affect and what is the deadline for obtaining a License?

The changes to the Nevada Fertilizer regulation were made effective January 1st 2005; therefore, Licenses should be obtained immediately.

Important Contact Information

Phone Numbers

- Nevada Department of Agriculture
 - Restricted Fertilizer Dealer Licensing - 1 (775) 688-1180 ext.256
- The Fertilizer Institute "America's Security Begins With You" - 1 (800) 800-3835
- Bureau of Alcohol, Tobacco Firearms & Explosives - 1 (800) 800-3835
- For Emergencies Call 911

Web Sites

http://agri.nv.gov/Chem_index.htm

<http://www.tfi.org>

<http://www.atf.gov>

Appendix A

Application for Fertilizer License

Instructions

- 1) If you plan to offer for sale, the Restricted Fertilizers, ammonium nitrate or anhydrous ammonia, as unblended, single-nutrient fertilizers, you are required to obtain a Restricted Fertilizer License. There is a \$25.00 fee for this License.
- 2) Complete the form below. Complete all fields including information for all individual agents/outlets, and return it to the address on the application, attention: Ruth Tietjen, along with the fee (Only \$25.00 per dealer NOT per agent).
- 3) For questions call 775 688-1180 extension 256 or contact Ruth Tietjen

The application is on the following page.

RFDL No.:

STATE OF NEVADA
DEPARTMENT OF AGRICULTURE
350 Capitol Hill Avenue
Reno Nevada 89502-2923

APPLICATION FOR DEALERS LICENSE TO SELL RESTRICTED FERTILIZER

Application is hereby made for a permit to sell fertilizer which is classified as Restricted to consumers or users for calendar year ending December 31, 2005. Remittance payable to Nevada Department of Agriculture in amount of \$25.00 is enclosed herewith.

DEALER / COMPANY NAME & ADDRESS:

Dealer: _____ Attention: _____
Address: _____ Telephone: _____
City: _____ Fax: _____
State: _____ Zip: _____ E-Mail: _____

AGENT(s) (Name & Location) Phone Fax Email

I hereby certify that the information appearing on this application is true and correct; that each person licensed to sell Restricted Fertilizer to consumers or users will maintain and keep records for a period of 2 years on all sales of Restricted Fertilizer including all information required by NRS 588.295.

Signature _____ Date _____
Name _____ Title _____

Appendix B

Relevant Statutes as Amended

The following statutes (NRS 588.295) outline who is required to obtain a fertilizer license and who is exempt from these requirements. Additional provisions (NAC 588.) include gaining access to drivers license information.

NRS 588.295 Restricted-use commercial fertilizers and agricultural minerals: Registration of seller, distributor or deliverer; fees; records of sales; reports.

1. It is unlawful for any person to sell or offer to sell at retail, or to distribute or deliver for transportation for delivery to the consumer or user, a restricted-use commercial fertilizer or agricultural mineral unless the person is registered with the Director.

2. Each person applying for registration must provide the Director with a registration statement that includes:

(a) The name and address of the person registering; and

(b) The name and address of any person who, on behalf of the person registering, sells, offers to sell, distributes or delivers for transportation a restricted-use commercial fertilizer or agricultural mineral.

3. All such registrations expire on December 31 of each year and are renewable annually.

4. Each person registering with the Director must pay:

(a) An annual registration fee established by regulation of the State Board of Agriculture; and

(b) A penalty fee established by regulation of the State Board of Agriculture if the person failed to renew his previous registration on or before February 1 next following its expiration, unless his registration is accompanied by a signed statement that no person named on the registration statement has sold or distributed any restricted-use commercial fertilizer or agricultural mineral during the period the registration was not in effect.

5. Each person registered pursuant to this section shall maintain for at least 2 years a record of all sales of restricted-use commercial fertilizers or agricultural minerals showing:

(a) The date of sale or delivery of the restricted-use commercial fertilizer or agricultural mineral;

(b) The name and address of the person to whom the restricted-use commercial fertilizer or agricultural mineral was sold or delivered;

(c) The brand name of the restricted-use commercial fertilizer or agricultural mineral sold or delivered;

(d) The amount of the restricted-use commercial fertilizer or agricultural mineral sold or delivered; and

(e) Such other information as may be required by the Director.

6. Each person registered pursuant to this section shall, on or before the date specified for each reporting period established pursuant to subsection 7, file a report with the Director specifying the restricted-use commercial fertilizers or agricultural minerals that the person sold during the reporting period. The Director shall provide the form for the report. The report must be filed regardless of whether the person sold any commercial fertilizers or agricultural minerals during the reporting period.

7. The Director shall adopt regulations establishing reporting periods and dates for filing reports pursuant to subsection 6.

(Added to NRS by 2003, [412](#))

Amendments to NAC 588

Sec. 2. The following commercial fertilizers or agricultural minerals, if sold, offered for sale or distributed as single nutrients, not in combination with any other commercial fertilizer or agricultural mineral, are classified, pursuant to NRS 588.164, as restricted-use commercial fertilizers or agricultural minerals:

1. Ammonium nitrate containing 23% nitrogen or greater.
2. Anhydrous ammonia.

Sec. 3. 1. A person required by NRS 588.295 to maintain a record of the sale of restricted-use commercial fertilizers or agricultural minerals shall include in that record a unique number that provides positive identification of the buyer.

2. The unique number must be obtained from an identification document that:

- (a) Is issued by a governmental authority; and
- (b) Includes a photograph of the buyer.

3. The person maintaining the record shall visually inspect the original or a photostatic or other copy of the identification document:

- (a) Before the first sale or delivery to a buyer; and
- (b) If subsequent sales or deliveries are made to that buyer, not less than annually thereafter.

4. As used in this section, “buyer” means the person to whom the restricted-use commercial fertilizer or agricultural mineral is sold or delivered.

Sec. 4. A person required by NRS 588.295 to maintain a record of the sale of restricted use commercial fertilizers or agricultural minerals shall make the record available to the Director upon request.